

HOUSE BILL NO. 53

INTRODUCED BY JACOBSON

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN FUNDS COLLECTED BY OR ON BEHALF OF THE BOARD OF HORSERACING BE DEPOSITED IN A STATE SPECIAL REVENUE ACCOUNT; PROVIDING STATUTORY APPROPRIATIONS; ~~AND~~ AMENDING SECTIONS 17-7-502, 23-4-105, 23-4-202, 23-4-204, 23-4-302, AND 23-4-304, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

1 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
3 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
4 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
5 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
6 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
7 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
8 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
9 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
10 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
11 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
12 the inclusion of 2-15-151 terminates June 30, 2005.)"

13
14 **Section 2.** Section 23-4-105, MCA, is amended to read:

15 **"23-4-105. Authority of board.** The board shall, subject to 37-1-101 and 37-1-121, license and regulate
16 racing and review race meets held in this state under this chapter. All percentages withheld from amounts
17 wagered must be deposited in ~~the board's agency fund~~ a state special revenue account and are statutorily
18 appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under
19 23-4-202(4)(d), 23-4-204(3), and 23-4-302(3) to live race purses or for other purposes for the good of the
20 existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of
21 simulcast racing, not currently ~~engaged~~ authorized in Montana, it shall do so after holding public hearings to
22 determine the effects of these forms of racing on the existing saddle racing program in Montana. The board
23 should consider both the economic and safety impacts on the existing racing and breeding industry."

24
25 **Section 3.** Section 23-4-202, MCA, is amended to read:

26 **"23-4-202. Penalty for violations of law -- authority of board -- judicial review.** (1) A person holding
27 a race meet or an owner, trainer, or jockey participating in a race meet; without first being licensed under this
28 chapter; or a person violating this chapter is guilty of a misdemeanor.

29 (2) The board or, upon the board's authorization, the board of stewards of a race meet at which ~~they~~
30 the stewards officiate may exclude from racecourses ~~in this state~~ a person whom the board or board of stewards

1 considers detrimental to the best interest of racing as defined by rules of the board.

2 (3) As its own formal act or through an act of a board of stewards of a race meet, the board may
3 suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000,
4 against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition
5 to the suspension or revocation and fine, the board may ~~forbid~~ prohibit application for relicensure for a 2-year
6 period. Fines collected under this subsection must be deposited in the general fund.

7 (4) The board shall promulgate rules implementing this chapter, including the right to a hearing for
8 individuals against whom action is taken or proposed under this chapter. The rules may include provisions for
9 the following:

10 (a) summary imposition of penalty by the stewards of a race meet, including a fine and license
11 suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

12 (b) stay of a summary imposition of penalty by either the board or board of stewards;

13 (c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

14 (d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in
15 ~~the board's agency fund~~ a state special revenue account and statutorily appropriated to the board as provided
16 in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for
17 other purposes that the board considers appropriate for the good of the existing horseracing industry.

18 (e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses
19 except stakes races;

20 (f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses
21 are reinstated;

22 (g) definition of exotic forms of wagering on races to be allowed;

23 (h) standards for simulcast facilities; and

24 (i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races.

25 (5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review
26 of cases arising under this chapter."
27

28 **Section 4.** Section 23-4-204, MCA, is amended to read:

29 **"23-4-204. Race exclusively for Montana-bred horses -- bonus for winner.** (1) For the purpose of
30 encouraging the breeding in this state of valuable registered horses, at least one race each day at each race

meet must be limited to horses bred in this state unless, in the board's judgment, there is an insufficient number of Montana-bred horses for the race. If in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead. Races with exclusively Montana-bred horses must be run for 20% higher purses than races in comparable conditions that are not run with exclusively Montana-bred horses.

(2) The licensee conducting the race meet shall pay a sum equal to 10% of the first money of every purse won by a horse bred in this state to the breeder of the horse within 30 days of the end of the race meet. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(3) Three percent of exotic wagering on a simulcast race must be deposited in ~~the board's agency fund account~~ a state special revenue account. Those funds are statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry."

Section 5. Section 23-4-302, MCA, is amended to read:

"23-4-302. Distribution of deposits -- breakage. (1) Each licensee conducting the parimutuel system shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in ~~the board's agency fund~~ a state special revenue account. The funds deposited are statutorily appropriated to the board as provided in 17-7-502. The board shall then

1 distribute all funds collected under this subsection to live race purses or for other purposes that the board
2 considers appropriate for the good of the existing horseracing industry."

3
4 **Section 6.** Section 23-4-304, MCA, is amended to read:

5 **"23-4-304. Gross receipts -- department's percentage -- collection and allocation.** (1) (a) The
6 licensee shall pay to the department within 5 days following receipt by the licensee 1% of the gross receipts of
7 each day's parimutuel betting at each race meet. At the end of each race meet the licensee shall prepare a
8 report to the department showing the amount of the overpayments and underpayments. If the report shows the
9 underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid
10 to the department may be used for the expenses incurred in carrying out this chapter. The licensee shall, at the
11 same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic wagering on races. These
12 funds must be deposited in ~~the board's agency fund~~ a state special revenue account. The board shall then
13 distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board
14 considers appropriate for the good of the existing horseracing industry.

15 (b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of each
16 day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race meet,
17 whichever is higher. The money must be paid to the department within 5 days after receipt of the money by the
18 licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the department
19 showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in
20 excess of the overpayments, the balance must be paid to the department. Money paid to the department must
21 be deposited in an account in the state special revenue fund and must be used for the administration of this
22 chapter. The licensed simulcast facility shall, at the same time, pay to the department all funds collected under
23 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in ~~the board's agency fund~~ a state
24 special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race
25 purses or for other purposes that the board considers appropriate for the good of the existing horseracing
26 industry.

27 (2) Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be
28 distributed by the department, after first passing through ~~the board's agency fund~~ a state special revenue
29 account, to be used for race purses that are distributed to each live race meet by the board or for other purposes
30 that the board considers appropriate for the good of the horseracing industry.

1 (3) The funds collected under this section and deposited in a state special revenue account are
2 statutorily appropriated to the board as provided in 17-7-502."

3

4 NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2007.

5 - END -